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Edward J. Ruff Reports on the Colorado Junior Bar Conference

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The solution set forth in *In re Alvino* makes the matter a very simple and inexpensive one for both debtor and creditor. If the complaint in the state court unmistakably makes the action one in deceit for obtaining money by false representation or false pretense, the referee can immediately determine that he has no jurisdiction over the matter. Thus the entire issue of fraud is left properly with the state court to determine. If, on the other hand, it finds that there was not fraud in incurring the debt, the debtor is still protected by the adjudication and discharge in bankruptcy. If the state court finds that the debt was incurred by false pretenses or representations, the creditor is left to the remedies provided by the state law.

In the exercise of these remedies during the pendency of the proceedings in bankruptcy, the creditor must avoid, however, any interference with property under jurisdiction of the bankruptcy court. If the creditor attaches or in any manner interferes with the possession or control of property of the bankrupt properly within the jurisdiction of the bankruptcy court, then it must answer to that court for improper interference with the orderly administration of the estate of the bankrupt.

Edward J. Ruff

Reports on the Colorado Junior Bar Conference

It is too early in the year to report any active achievements, but an excellent start has been made toward one of the most successful years in the short history of the Conference. Committee chairmen and members have been appointed, the membership of each committee being subject to change by the chairman. The council posts have been filled from all eligible districts. By resolution at the annual meeting, the Conference chairmen of past years were made honorary council members without vote.

Several members of the Conference volunteered on October 16 to assist the various boards and commissions throughout the state in the registration under the Selective Service Act, and at the present time several are serving as advisors to the registrants.

The most urgent requirement at the present time is that all the members realize that there are a great number of younger lawyers in the state who are not members of the organization, and do their best to show these men the advantages of membership in the Conference.

In the past year the new members of the Conference were more than double its membership quota, and it is hoped that we can do as well, or better, this year.

The new council members and the committee personnel are as follows:

OFFICERS

Chairman: JOHN W. O'HAGAN, Greeley
Vice-Chairman: RAPHAEL J. MOSES, Alamosa
Secretary-Treasurer: EDWARD J. RUFF, Denver

COUNCIL

2nd District: Harold Taft King	8th District: David J. Miller
3rd District: Nicholas C. Dazzo	10th District: Leo S. Altman
4th District: William Q. Haney	11th District: Frank G. Stinemeyer
5th District: Charles R. Casey	13th District: Charles Henry Anderson
7th District: Donald S. Stubbs	

Last Retiring Chairman: Hubert D. Henry, Denver
 Honorary Member: Mark H. Harrington, Denver

PUBLIC INFORMATION AND SPEAKING

J. Quigg Newton, Chairman, 215 Colorado National Bank Building
 Nicholas C. Dazzo, Council Advisor, Trinidad
 Raphael J. Moses, Alamosa
 Bart W. O'Hara, 515 Midland Savings Building
 T. Raber Taylor, 520 Equitable Building
 Harold D. Torgan, 302 Midland Savings Building
 Wayne Bannister, 604 Equitable Building
 James D. Geissinger, 644 Thatcher Building, Pueblo
 Cecil S. Haynie, 210 Electric Building, Grand Junction
 Barnard Houtchens, 318 Greeley Building, Greeley
 Wayne D. Williams, Municipal Building
 E. J. Schaetzel, 322 Colorado National Bank Building

ECONOMIC SURVEY

Harlan Howlett, Chairman, Boulder
 Charles Henry Anderson, Council Advisor, Fort Morgan
 Raymond J. Heath, 341 Capitol Building
 Stewart A. Shafer, 619 Midland Savings Building
 Harry A. Feder, 823 University Building
 Vernon J. Ketring, Midland Savings Building
 Martin J. Husung, Paonia
 Julian R. Dunn, Greeley Building, Greeley
 Charles A. Petrie, First National Bank Building, Eads
 Mrs. Shirley Payne, Windsor
 William E. Anderson, 526 Thatcher Building, Pueblo

PLACEMENTS

Mark H. Harrington, Chairman, 1020 First National Bank Building
 Leo S. Altman, Council Advisor, 535 Thatcher Building, Pueblo
 Dayton Denious, 832 Equitable Building
 Douglas McHendrie, 730 Equitable Building
 Darwin D. Coit, Midland Savings Building
 Barnard Houtchens, 318 Greeley Building, Greeley
 Charles F. Stewart, Gunnison

SPONSOR NEWLY ADMITTED MEMBERS

Richard Brown, Chairman, International Trust Building
 Charles R. Casey, Council Advisor, Leadville
 H. Max Schmidt, 1454 Dexter Street
 Donald B. Robertson, 810 Tramway Building
 William L. Branch, 1715 California Street
 H. Shields Mason, 1020 First National Bank Building

BAR EXAMINATION AND STANDARDS OF ADMISSION
TO THE BAR

Sydney E. Shuteran, Chairman, 610 Midland Savings Building
Frank G. Stinemeyer, Council Advisor, Canon City
John W. Metzger, 512 Equitable Building
Terrill C. Drinkwater, 215 Colorado National Bank Building
John C. Street, 615 C. A. Johnson Building
Ora H. George, 730 Equitable Building
Marshal M. Reddish, U. S. Mint
George Rock, Municipal Building
Harry S. Silverstein, Jr., 812 Equitable Building

JUDICIAL SELECTION

Charles A. Baer, Chairman, Trust Dept., Colorado National Bank Building
Harold Taft King, Council Advisor, 720 Majestic Building
William V. Hodges, Jr., 917 Equitable Building
Thomas Chapin, 544 Equitable Building
Jack Ramsay Harris, 427 First National Bank Building
John H. Shippey, 718 Symes Building
Ford E. Williams, 715 E. & C. Building
Donald T. Horn, Goodale Building, Lamar

MEETINGS AND ARRANGEMENTS

Richard Davis, Chairman, 215 Colorado National Bank Building
William Q. Haney, Council Advisor, Colorado Springs
Truman A. Stockton, Jr., 820 First National Bank Building
Mrs. Lois G. Clark, 210 E. 10th Avenue
Stanley L. Drexler, 938 Equitable Building
George S. Graham, Capitol Life Building
James S. Henderson, Jr., 919 Equitable Building
Fred M. Winner, 540 Equitable Building
Robert A. Theobald, 603 E. & C. Building
James W. Booth, 701 Thatcher Building, Pueblo
Joseph L. Peterson, 529 Thatcher Building, Pueblo
Theodore D. Schui, Longmont
Harrison Loesch, Keller Building, Montrose

MEMBERSHIP

Hubert D. Henry, Chairman, Colorado National Bank
Donald S. Stubbs, Council Advisor, Montrose
Miss Barbara Lee, 1217 First National Bank Building
Allen A. Schaefer, 1435 Stout Street
William K. Rhodes, 541 Emerson Street
Kenneth P. Montgomery, Denver
Cecil Zeitlin, 2004 Champa Street
Charles F. Keen, Pueblo
Rowen B. Ayers, Buena Vista
Karl Ahlborn, Fort Lupton
Alfred F. Heinicke, Colorado Springs
J. Donald Haney, Colorado Springs
Charles W. Kreager, Jr., Sterling
H. Meyers Bumgardner, Pueblo

BILL OF RIGHTS

Robert H. Close, Chairman, 419 Midland Savings Building
David J. Miller, Council Advisor, Coronado Building, Greeley
Robert L. Gee, Midland Savings Building
Marvin W. Pepper, Midland Savings Building
Milton Morris, 823 University Building
Paul E. Vetting, 824 Equitable Building

Another Board Adopts an Intolerable Rule

It will be recalled that in the last Lawyer Service Letter attention was called to the recent manifestation of a reach for power by administrative boards in seeking to control and discipline attorneys representing private clients. In that letter such rules and regulations, which would either exclude or disbar an attorney deemed guilty by the board of "disrespectful" or "contemptuous" language or conduct, were condemned as intolerable, and the long history of the struggle of the bar to protect the individual rights of citizens was referred to.

The Social Security Board comes forward with a regulation purporting to authorize it to suspend or debar an attorney who, in the board's opinion, has misled any claimant or who has made or participated in the making of any false statement as to any material fact affecting the right of any person to benefit under the Social Security Act. Thus, the Social Security Board would be the final authority in branding an attorney as having misled his client or as having made a false statement affecting his client's rights.

This dangerous grasping for power over the legal profession has nothing to do with the personnel of any administrative board. Although the members of a given board may customarily act with circumspection, the question of power remains. The personnel of any board is subject to change; although the personnel at any given time may have one attitude toward attorneys, their successors may have an entirely different attitude. In other words, the fact that this power may not be abused at one time by some men is no guarantee that the same power will not be abused at another time by other men. Therefore, the power to discipline attorneys should not be possessed by any administrative board.

It would seem that this growing danger should be studied immediately by bar associations, to the end that the problem may receive widespread discussion. In this way sound conclusions may be arrived at with the result that the freedom of the legal profession, and the consequent welfare of the public, will not be jeopardized in any degree.

—*New York Bar Lawyer Service Letter.*

Taking Testimony of Draftees Before Their Induction Into the Service

Many millions have answered the call of our President to rally behind our defense program. Until the stated day when draftees must go away, is it not proper and fitting that they serve the cause of good government by preserving the principles of truth and justice on which it is founded? This they can do now by giving their testimony while they are able to do so, without any interference to the defense program. This very thing can and will be done in the federal courts and there is no reason why the same rule should not prevail in the state courts.

The testimony of every draftee should be taken as soon as an action is commenced. The right of cross-examination should be preserved. An attorney should have the right to require every draftee to appear before a notary public or commissioner of deeds while he can still do so and give testimony as to what he knows. It will save the time of the court because witnesses who know nothing will not be called at the trial. It will perpetuate the testimony of draftees who may later not be available at the trial. It will enable attorneys to properly prepare their cases for trial and they will not lose cases because their witnesses are away. A witness is the most valuable part of the administration of justice and he does not belong to either side. An immediate examination is very important while the mind and memory of the witness are still clear. His testimony two or three years later, if he is still available, and can be reached, is very often based on mere conjecture or speculation. Where the testimony of a witness has been taken in advance of the trial and he should later be unavailable because he has been drafted into the service and these facts are shown to exist, his testimony should be permitted to be used at the trial.

Motions for summary judgment will be more readily granted and more settlements will be effected in the face of strong testimony to support a claim or defense. Experience in the federal courts has shown this practice of pre-trial examination of witnesses to be most effective in aiding court, client and counselor.

—*Meyer Kirschenbaum, Esq., Member of New York Bar.*

Willard T. Simmons, President of El Paso Bar, Dies

Willard Simmons, only lately elected president of the El Paso County Bar, died, after a brief illness, on October 21st.

Judge Simmons was born in Illinois in 1870, and graduated in law from the University of Kansas in 1896. He entered the practice of law in Norton, Kansas, where he was city attorney four terms, was appointed judge of the 17th Judicial District in Kansas in 1920, was elected to the full term which he served until 1927.

In 1928 he moved to Colorado Springs, where he has been engaged in the practice of law until his death.

Judge Simmons was active in the El Paso County Bar Association, served as attorney for receiver of one of the defunct building and loan associations, and was an ardent sportsman until his death.

—*Charles J. Simon, Correspondent.*

Clarence C. Hamlin

Clarence Clark Hamlin, of the El Paso County Bar, died, October 29th, after an illness of nearly a year.

Mr. Hamlin was publisher of the *Gazette and Telegraph*, morning

and evening papers of Colorado Springs, and had been retired from active practice of law for a number of years.

He was born in Manchester, Iowa, January 7, 1868, graduating from the University of Iowa in 1890, with a degree of doctor of laws.

He practiced in Wyoming, serving two terms as state senator, and as a member of the commission to revise the Wyoming statutes. In 1896 he moved to Colorado Springs, first associated with the law firm of the late Judge Allen T. Gunnell.

He was elected district attorney in 1906, and served one term during the troublesome days of the Cripple Creek strike. He served as Republican National Committeeman from 1924 to 1932, and was a close friend of Presidents Harding, Coolidge and Hoover.

Mr. Hamlin was the last of a number of builders of this community, numbering among others, Spencer Penrose, C. M. McNeil, Eugene P. Shove, A. E. Carlton, L. G. Carlton, and O. H. Shoup, with whom he was closely associated.

—Charles J. Simon, Correspondent.

PROBATE REVISION

William E. Hutton, President of the Colorado Bar Association, has announced the appointment of a committee of the Colorado Bar Association to cooperate with a similar committee of the Colorado County Judges Association appointed by Judge C. Edgar Kettering, President of that association, to receive and compile suggestions for changes in the present Colorado probate laws and submit suggested amendments to the Colorado Legislature.

All members of the Bar and all county judges having suggested changes to make in the probate laws are requested to convey their suggestions to a member of one of these committees. Inasmuch as the committees have before them the remarks made by the various speakers at the Colorado Bar Association meeting, it will not be necessary to forward any of the suggestions made there to the committees.

CURRENT TAX DEVELOPMENTS

Discussed by ALBERT J. GOULD

LIQUIDATING CORPORATIONS EXEMPT FROM CAPITAL STOCK TAX

In view of the present trend toward liquidation of corporations, Washington, Baltimore & Annapolis Realty Corp. v. Commissioner (D. C. Md.), 10-23-40, and S. Makransky & Sons, Inc. v. U. S. (D. C. E. D. Pa.), 10-14-40, are of interest because they hold that corporations whose activities are confined to liquidation are not doing business and are exempt from the capital stock tax, even though the liquidation has not been completed during the month of July, when the capital stock tax return is required to be filed.

In the Makransky case the "operating assets" had been disposed of, but life insurance policies on the lives of the officers remained and income was received from sale of securities and dividends thereon.